

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AXION POWER INTERNATIONAL, INC.,
WILLIAM AND TRACY AHEARN, h/w,
SALLY FONNER, and JAMES SMITH, M.D.,

Plaintiffs,

- against -

MERCATUS & PARTNERS, LTD.,
MF GLOBAL, INC., MF GLOBAL, UK, Ltd.,
CARI MASI a/k/a CARY MASI,
BNP PARIBAS SECURITIES SERVICES,
BANCA MB S.p.A., DWIGHT PARSCALE,
STEPHANO CEVALO, CONTINENTAL STOCK
TRANSFER AND TRUST COMPANY,
PENSON FINANCIAL SERVICES, INC., and
BROWN BROTHERS HARRIMAN & CO.,

Defendants.


Civ. Action No. 07-CV-11493

ECF Case

NOTICE OF MOTION

TAKE NOTICE that upon the accompanying Memorandum of Law and all prior proceedings in this case, the undersigned will move this Court, before the Honorable Robert W. Sweet, United States District Judge for the Southern District of New York, at the United States Courthouse, 500 Pearl Street, Room 1920, New York, New York 10007, on a date designated by the Court, for an order dismissing with prejudice Plaintiffs' Complaint dated December 20, 2007 (the "Complaint") pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure and pursuant to the Private Securities Litigation Reform Act of 1995, and granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 10, 2008

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